

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 05/05/03

149 -

AGENDA SECTION: REPORTS AND RECOMMENDATIONS	ORIGINATING DEPT: CITY ATTORNEY'S OFFICE	ITEM NO. F-1
ITEM DESCRIPTION: SIGNS ON PUBLIC PROPERTY ORDINANCE		PREPARED BY: TERRY ADKINS TLA

As best as I can determine, the only clear and unequivocal ordinance provision that prohibits the placement of signs on utility poles in the public right-of-way is found in the zoning ordinance. Section 63.224(2)(i), (k) says a person may not place a sign on a utility pole that is located within the public right-of-way. Unfortunately, a zoning ordinance violation is not the easiest violation to enforce. A police-issued citation process is not available in the enforcement of this zoning ordinance. Instead, the Planning Department must issue a Notice of Violation and give the offender up to 30 days to correct the problem. Only if the zoning violation continues to occur can the City take formal enforcement action.

In light of a recent incident of a "hate" flyer being posted on a utility pole, and with a desire to clarify this subject once and for all time with a clearly stated ordinance outside of city land use ordinances, I have prepared a separate ordinance to be included in the non-zoning ordinance portion of the Rochester Code of Ordinances. This new ordinance would basically repeat the zoning ordinance prohibition, although I have added some specificity and an exception for a revocable permit. By placing this new ordinance outside of the City's zoning ordinance, we are able to authorize the police department's issuance of citations to those who violate its provisions.

I believe the Police Department's primary enforcement approach will be to inform those who post signs on utility poles that they cannot do so and to please remove them. In most cases, that approach will work. However, in the case where someone wants to ignore such warnings and continues to post material on public property, this ordinance will give the police the enforcement authority to immediately issue a citation.

Council Action Requested:

Motion to instruct the City Attorney to give the ordinance prohibiting the placement of signs upon public property its first reading. In the interest of time and efficiency, a motion to suspend the rules and to give this ordinance its second reading at this time would be in order.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

150
ORDINANCE NO. ____

AN ORDINANCE CREATING AND ENACTING SECTION
73.11 TO THE ROCHESTER CODE OF ORDINANCES,
RELATING TO SIGNS ON PUBLIC PROPERTY.

THE COMMON COUNCIL OF THE CITY OF ROCHESTER DO ORDAIN:

Section 1. Section 73.11 of the Rochester Code of Ordinances is hereby created and enacted to read as follows:

73.11. Signs on Public Property. Subdivision 1. No person shall paint, mark or write on, post, or otherwise affix any handbill, sign, advertisement or flyer to or upon any public property. For purposes of this section, "public property" shall mean any sidewalk; crosswalk; curb; parking meter; street lamppost; hydrant; tree; shrub; tree stake or guard; electric light, power or telecommunications pole or wire appurtenance; utility structure; street sign; or traffic sign that is located within a public utility easement or public right-of-way.

Subd. 2. Any handbill or sign found posted or otherwise affixed upon any public property contrary to the provisions of this section may be removed by the police department, the department of public works, or the public utility department. The person responsible for any such illegal posting shall be liable for the cost incurred in its removal and the city clerk is authorized to collect the cost.

Subd. 3. This section does not apply to any marking on or posting of a handbill, sign or flyer to public property authorized by a revocable permit issued by the Council so long as the permittee complies with the conditions of the permit.

Subd. 4. This section does not apply to any marking on or posting of a handbill, sign or flyer to public property authorized by the City as part of the normal use or operation of that public property item or for any other municipal government purpose.

Subd. 5. Any person who violates this Section is guilty of a misdemeanor.

151 -

Section 2. This ordinance shall be effective from and after publication.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS ____ DAY OF _____, 2003.

PRESIDENT OF SAID COMMON COUNCIL

ATTEST: _____
CITY CLERK

APPROVED THIS ____ DAY OF _____, 2003.

MAYOR OF SAID CITY

(Seal of the City of
Rochester, Minnesota)

Ord2000/73.11

